

REMARKS

Applicant responds to the Office Action of December 24, 2008. Claims 1-29 are pending in the application. Claims 1-15 have been rejected. Claims 16-29 are withdrawn.

Election/Restriction

A restriction requirement has been made in this application between Group 1, claims 1-15, drawn to a process for electrode production and Group II claims 16-29, drawn to a metal article. A provisional election was made without traverse to prosecute the invention of Group 1, claims 1-15. This provisional election is hereby affirmed.

Applicants reserve the right to file a continuing application or take such other appropriate action as is necessary to preserve the non-elected invention. Applicants do not waive or abandon any rights in the non-elected invention.

The Examiner advises that upon cancellation of claims to non-elected inventions, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Owing to the foregoing election, the inventorship has been reviewed, and no amendment of the inventorship is necessary at this time.

Claims 1-15 are rejected under 25 USC §112, second paragraph

Claims 1-15 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Applicants submit that claims 1-15 have been amended to distinctly claim the relevant metal "oxide" and by such amendment, indefiniteness has been removed. Accordingly, withdrawal of this objection is respectfully requested.

With respect to claims 10 and 11, the Examiner has rejected the claims as failing to provide the technical features necessary to achieve the result claimed. Applicants have amended claims 10 and 11 and by such amendment believe this rejection is overcome. Accordingly, withdrawal of this objection is respectfully requested.

Claim 13 has been rejected as having subjective and vague terminology with respect to the language "minimal mudcracks" such that it is unclear what specific amount Applicants consider as minimal. Applicants submit that the specification, at Page 9, lines 17-28 clearly define the amount which Applicants consider as minimal, and that one skilled in the art would understand, with reference to the specification, what is meant by the term. Accordingly, withdrawal of this objection is respectfully requested.

Claims 1-6 and 9-15, are rejected under 35 USC §102(e)

Claims 1-6 and 9-15 have been rejected under 35 USC §102(e) as anticipated by U.S. Patent Publication 2002/0148736A1 to Zolotarsky et al (hereinafter "Zolotarsky"). The Examiner asserts that Zolotarsky teaches the composition of Applicants' claim 1, and while Zolotarsky does not explicitly disclose the surface morphology of the coating as being characterized by minimum mudcracks, because Zolotarsky teaches to form a coating using the same process, having the same composition and the same concentration as Applicants' invention, it is inherent that the surface morphology of the coating is characterized by minimum mudcracks. Applicants respectfully traverse.

Applicants submit that the coating of Zolotarsky is **NOT** equivalent to the coating claimed by Applicant for at least the following reasons:

1. The coating of Zolotarsky is a four component coating containing the electrocatalytic agent ruthenium oxide, the oxygen suppressant antimony oxide, the electroconductive binder titanium oxide **AND** the stability enhancing agent iridium oxide. (Paragraph 27).

2. Applicants' coating is a mixture of ruthenium, tin or antimony, and titanium only, as set forth in Applicants' amended claim 1.

Thus, one skilled in the art reviewing the teachings of Zolotarsky would not be directed to arriving at Applicants' invention. Applicant respectfully requests the withdrawal of the rejection of Applicants' claims as based upon Zolotarsky.

Claims 7 and 8 are rejected under 35 USC §103(a)

Claims 7 and 8 have been rejected under 35 USC §103(a) as obvious over Zolotarsky in view of U.S. Patent 4,272, 354 to De Nora, et al. (hereinafter "De Nora"). The Examiner asserts that it would have been obvious to one of ordinary skill in the art to perform routine experiments to obtain an optimal amount of tin oxide as it helps to control the potentials. Applicant respectfully traverses the rejection.

The rejection is based on dependent claims, of which the independent claim is not taught by the cited Zolotarsky reference. Therefore, the arguments of the Examiner are moot as Zolotarsky cannot teach the claimed features of the preceding independent claim, making these rejected claims allowable also.

Thus, a prima facie case of obviousness has not been made with respect to claims 7 and 8 under 35 U.S.C. §103(a), and it is respectfully submitted that the Examiner reconsider the rejection of Applicants' claims as based upon these references.

Further, pursuant to 37 CFR 1.56, Applicants submit that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

Conclusion

In view of the foregoing, Applicants believe that the claims are now in condition for allowance and respectfully request issuance of a notice of allowance for claims 1-15.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to Deposit Account No. 05-0882 under Attorney Docket No. **ELTP131WOUS.**

Respectfully submitted,

/Michele M. Tyrpak/

Michele M. Tyrpak

Registration No. 42,192

Eschweiler & Associates
National City Bank Building
629 Euclid Avenue, Suite 1000
Cleveland, OH 44114
Telephone: (216) 502-0600
Facsimile: (216) 502-0601

ATTORNEY DOCKET NO.:

ELTE P131WOUS

E00332